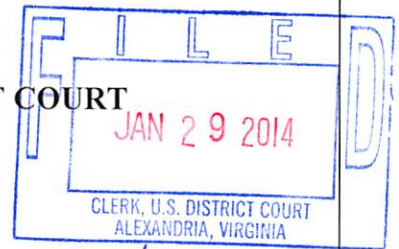


IN THE UNITED STATES FEDERAL DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION



Moniqua D. Bumpers
1835 Good Hope Road. SE
Washington D.C. 20020
Plaintiff,

vs.

Diamond Solutions Inc.
12150 Monument Drive
Fairfax, VA 22033
Defendants.

Case No. 1:14 CV 101
AJT/TCB

Civil Complaint for Violation of Title VII &
the American Disabilities Act, Amendments
Act of 2008, 42 U.S.C. § 12101 *et al* & the
Fairfax County Code, Human Rights
Ordinance, § 11-1-5.

Jury Demand

PRELIMINARY STATEMENT

Moniqua D. Bumpers (Ms. Bumpers) by and through her undersigned counsel, bring this action of discrimination and retaliation as under Title VII and the American Disabilities Act Amendments Act of 2008 (ADAAA), 42 U.S.C. §12101 *et. seq*, and the Fairfax County Human Rights Ordinance, § 11-1-5, against employer Diamond Solutions Inc.

Diamond Solutions Inc (DSI) is a government contractor which provides medical records technician services in the greater Washington D.C. metropolitan area to both government clients and private hospitals. Ms. Bumpers was employed by DSI as a "Medical Appointing Clerk" from January 24, 2012 to the last day of her termination or December 19, 2012. She earned \$31,000 per year.

Ms. Bumpers has a medical history of stomach ulcers and anxiety attacks. The stomach ulcers affecting her digestive system result in severe stomach cramps and pains, substantially limiting major life activities of: standing, sitting, walking, reaching, bending, speaking, breathing, reading, concentrating, thinking, communicating, interacting with others and working.

1 Relief from the stomach pains may sometimes be achieved by taking frequent bathroom breaks.
2 Occasionally, the onset of stomach cramps or ulcers, is followed by an anxiety attack resulting in
3 tightening of the chest muscles, chest pains and shortness of breath. She first experienced these
4 symptoms in 2008, and it has continued unabated. In 2013, she made four (4) visits to the
5 Emergency Room because of her physical ailments. She continues to see a physician to address
6 her medical condition. She also suffers from major depressive disorder because of childhood
7 trauma as a result of a sexual assault, and when she suffered three (3) miscarriages in 2009.
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10 The Human Resources (HR) Director Ms. Barbara Wright was made aware of her
11 physical ailments effecting her digestive system and brain function, soon after her employment,
12 because Ms. Bumpers would frequently take time off to visit her doctor to address her physical
13 ailments. She would send an email to Ms. Wright when she took time off to visit her doctor and
14 she would also submit medical documents and doctor's notes to DSI. Despite this, DSI never
15 engaged in the interactive process to enquire if she needed any accommodation to address her
16 disabilities, and later retaliated against Ms. Bumpers by issuing her a Performance Improvement
17 Plan (PIP) for these employer sanctioned excused absences, and then subsequently terminated
18 her.
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20 Also, when on September 7, 2012, she discussed her medical and physical ailments with
21 her DSI supervisor Mr. Jeffery Bolling, he sarcastically said "they have medication for people
22 like you." Five (5) days after this conversation, Mr. Bolling had segregated Ms. Bumpers by
23 placing her at the back of the office without an assigned desk. Other similarly situated medical
24 appointment clerks without a disability, were not segregated. Mr. Bolling also initiated
25 surveillance of Ms. Bumpers by following her to the bathroom; this behavior would continue
26 uninterrupted for the next 21 days, or until her termination on December 19, 2012.
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1 On December 10, 2012, Ms. Bumpers experienced stomach pains at work,
2 followed by an anxiety attack, resulting in chest pains and tightening of the chest muscles. She
3 asked Mr. Bolling if she could leave to see a doctor. He said, "No." She then called DSI Human
4 Resources (HR) to request permission to see a physician. HR allowed her to see a physician. On
5 this day, she visited the emergency room at the "United Medical Center." She discussed her
6 ailments with the medical physician who advised her to seek the "on call" shift at DSI.
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8 On December 12, 2012, Ms. Bumpers sends an email to Ms. Wright, the HR Director at
9 DSI for a reasonable accommodation to the "on call" shift per her physician's instructions. She
10 never receives a reply for accommodations. On December 13, 2012, Ms. Bumpers visited her
11 primary physician Dr. Katherine Hurd, who again recommends an accommodation to the "on
12 call" shift. On December 17, 2012, Ms. Bumpers again sends an email to Ms. Wright requesting
13 accommodation to the "on call" shift, she again never receives a reply. On December 18, 2012,
14 she reports to work and experiences stomach pain affecting the digestive organs, chest pains and
15 hyperventilation. Per company policy she visits Mr. Bolling to inform him of her physical
16 ailments but is unable to locate him at his desk. She then telephones HR Administrative Assistant
17 Ms. Samantha Lawrence and informs her that she needs to leave for the day for a visit to the
18 doctor, and asks to speak with DSI Chief Executive Officer Mr. Earl Brown. Mr. Brown informs
19 Ms. Lawrence to have Ms. Bumpers hold the line for five minutes. She holds the line for three
20 minutes before feeling her chest muscles contracting; fearing a heart attack she leaves the work
21 premises to visit the emergency room. When Ms. Bumpers arrived to work on December 19,
22 2013, she was terminated by Ms. Wright for leaving the work premises without permission. This
23 is simply false as she had informed Ms. Lawrence of her intent to leave work.
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1 Post-termination, Ms. Bumpers applied for unemployment insurance from the Virginia
 2 Employment Commission. She was denied unemployment insurance because DSI informed the
 3 Commission that she was terminated for cause, in this case leaving the work premises without
 4 permission. Consequently, this action now follows.

6 I. PARTIES

- 8 1. Ms. Bumpers was employed by the Defendant Diamond Solutions Inc., as a "Medical
 9 Appointing Clerk" from January 24, 2012 to the last day of her termination or
 10 December 19, 2012. She earned \$17/hour or \$31,000 per year. As a Medical
 11 Appointing Clerk, she is required to answer the telephone, input data and information
 12 on to computer software so as to schedule medical appointments, and engage in
 13 excellent customer service. Ms. Bumpers suffers from chest pains, stomach ulcers,
 14 extreme depression and anxiety and has a "record of such impairments"¹ since 2008.
 15 These physical and mental impairments² substantially limits the following major life
 16 activities, in this case: eating, sleeping, walking, standing, sitting, speaking,
 17 breathing, learning, reading, concentrating, thinking, communicating, interacting with
 18 others, and working³. She continues to experience these mental and physical
 19 impairments and continues to visit a medical provider.
- 20 2. Ms. Bumpers is a qualified individual with a disability who is able to perform the
 21 essential functions of her employment with or without an accommodation as under 42

28
 29 ¹ 29 C.F.R. § 1630.2 (g) (1) (ii)

30 ² 29 C.F.R. § 1630.2 (h) (2). The EEOC enforcement guidance cites the following
 31 example of "emotional or mental illness": anxiety disorders. *EEOC Enforcement*
 32 *Guidance on the Americans with Disabilities Act & Psychiatric Disabilities*.
 (1997). <http://www.eeoc.gov/policy/docs/psych.html> (last visited 1/13/2014)

³ 29 C.F.R. § 1630.2 (i).

1 U.S.C. §1211 (8). She is also a disabled person under 29 C.F.R. § 1630.2 (g)(1) and
2 an employee as under Fairfax County Code § 11-1-2 of the Human Rights Ordinance.
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- 4 3. Formed in 2002, Diamond Solutions Inc., is a business that works with a diverse
5 range of administrative and personnel support services to federal, state, and local
6 government agencies as well as private sector clients. Diamond Solutions Inc., is a
7 covered entity and an employer as under 42 U.S.C. § 1211 (2), and as under the
8 Fairfax County Code § 11-1-2. They have locations in Washington D.C., Maryland
9 and Virginia.
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12 II. JURDICTION & VENUE

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14 4. This Court has subject matter jurisdiction on her Title VII, American Disabilities Act
15 (ADA) claims as under 42 U.S.C. §12101 *et.seq.*, and 28 U.S.C § 1331. This Court
16 also has supplemental jurisdiction on her state law claims as under the Fairfax County
17 Code under 28 U.S.C. §1367.
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19 5. Venue is proper in the Eastern District of Virginia for Alexandria as under 28 U.S.C.
20 §1391, because both the Plaintiff and the Defendant are located within the Court's
21 district, and also a substantial part of the claims and defenses to the action occurred
22 within the Court's district, in that Plaintiff was hired in the Eastern District and
23 worked eleven (11) of her twelve (12) months in the Eastern District.
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26 III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

- 27 6. On February 26, 2013, Ms. Bumpers filed a charge with the Equal Employment
28 Opportunity Commission (EEOC), charge number 570-2013-00907, by completing
29 and signing a Form 5 alleging disability discrimination and retaliation. A copy was
30 also cross filed by the EEOC with the Fairfax County Human Rights Commission.
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- 1 7. On Monday May 20, 2013, the Washington EEOC Field Office scheduled an
2 informal mediation amongst the parties. It was attended by Ms. Bumpers, her counsel
3 and as the sole representative of DSI, Ms. Barbara Wright. An outline of the
4 allegations here, were read to Ms. Wright by Ms. Bumpers.
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6 8. On July 2013, after Ms. Bumpers was denied her unemployment insurance, she filed
7 another charge with the EEOC, charge number 570-2013-01384 alleging retaliation
8 because of her prior protected activities. A copy was also cross filed by the EEOC
9 with the Fairfax County Human Rights Commission.
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11 9. On October 31, 2013, the EEOC issued a Notice to Sue for both charges. It was
12 received by the Plaintiff on November 6, 2013.
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14 10. On January 2014 an action was timely filed with this Court.
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16 11. Ms. Bumpers has no further administrative obligations.
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18 IV. STATEMENT OF FACTS

- 19 12. Ms. Bumpers is a certified medical technician who obtained her certificate from
20 MedTech College in Washington D.C. Prior to her employment with the Defendant,
21 she was employed for two years as a Medical Technician at the Walter Reed Army
22 Medical Center in Washington D.C .
23
24 13. On January 24, 2012, Ms. Bumpers began her employment with Diamond Solutions
25 Incorporated (DSI) as a "Medical Appointing Clerk" earning \$17/hour or \$31,000 per
26 year. At the time of her interview, she was told by the DSI Human Resource Director
27 Ms. Barbara Wright, that all work matters are to be discussed with the team leads
28 only.
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1 **14.** DSI had a government contract to provide medical services for actives military
2 employees. As a Medical Appointing Clerk, Ms. Bumpers' duties were to schedule
3 medical appointments for military staff with hospitals and physicians in the greater
4 Washington D.C. Metropolitan area. She worked at the Rosslyn, Virginia location. To
5 the best of our knowledge, DSI employs staff on a full time, part time and on call
6 status. Ms. Bumpers was employed on a full time status at 40 hours per week.

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9 **15.** Her immediate supervisor and team lead was Ms. Sharon Abbot. She was Ms.
10 Bumper's team lead from January 2012 – April 2012. She was then transferred to Mr.
11 Jeffery Bolling's team, who served as her team lead from April 2012-December 19,
12 2012, or the last day of her termination. Both her team leads informed Ms. Bumpers,
13 that her start time was from 8am-5pm. DSI however also had a flex time policy,
14 whereby unless an employee was more than 10 minutes late for the start of a shift, an
15 employee need not call her team leads to inform them of their delay. Ms. Bumpers
16 was to work 40 hours per week.

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20 **16.** Her work area consisted of working with other "Medical Appointing Clerks" a
21 majority of who are female. They worked in close quarters in an open space, each
22 assigned to their own computer terminal.

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24 **17.** From January 24, 2102 to August 2012, she performed her work duties diligently
25 professionally and without incident. Infact during these times, she was frequently
26 commended upon by the government client and by both Ms. Abbot and Mr. Bolling
27 about her professionalism and great customer service. To the best of our knowledge,
28 neither Mr. Bolling nor Ms. Abbot gave Ms. Bumpers a negative performance review.
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Ms. Bumpers is a Disabled Person Within the Meaning of the ADA

18. During the January 2012-August 2012 period, Ms. Bumpers visited the Emergency Room (ER) 5-7 times to address her stomach pains and ulcers. The Emergency Room physicians would inturn ask her to follow up with her personal physician Dr. Katherine Hurd, at "East of the River Family Health Center" in Washington D.C. Dr. Hurd prescribed her with an inhaler to combat the shortness of breaths, along with other medications. Her physician also advised her to take frequent bathroom breaks. She continues to see a medical provider to discuss her ailments, and consequently has a record of such an impairment as under the ADAAA.
19. On some of these occasions, when the stomach ulcers would affect her during the work day, because of the travel involved between Rosslyn and Washington D.C., she would take the whole day off to visit the ER or her physician Dr. Hurd. Ms. Bumpers would travel by public transportation.
20. The stomach ulcers would result in severe stomach cramps and pains, substantially limiting major life activities of: standing, sitting, walking, reaching, bending, speaking, breathing, reading, concentrating, thinking, communicating, interacting with others and working. Sometimes the pain can be so severe that it can bring on an anxiety attack, further resulting in the tightening of the chest muscles, and chest pains which in turn would affect her ability, to breathe. These episodes can last anywhere from 20 minutes to a couple of hours in a day. Occasionally to relieve the stomach pain, she would engage in the self act of emesis. The stomach pain can sometimes be relieved if she is allowed frequent bathroom breaks. She has been experiencing these symptoms since 2008 and continues to do so.

Ms. Bumpers is Qualified To Perform the Essential Functions of the Job With or Without An Accommodation

21. From the January 2012-April 2012 time period, her team lead Ms. Abbot was aware of her physical ailments, on account that she would submit copies of her medical leave to both Ms. Abbot and Ms. Wright. Ms. Abbot was also aware of Ms. Bumpers' needs for frequent bathroom breaks, so as to lessen the frequency of her stomach attacks or the pain associated from it. She thus continued to perform her job functions of answering telephone calls, inputting data and scheduling medical appointments.
22. Sometime around mid or late April 2012, Ms. Bumpers was transferred to Mr. Bolling's team. Mr. Bolling was now her team lead.
23. Around this time, she had another ulcer attack and spent about 30 minutes in the bathroom. Upon her return to her work station, she is asked by Mr. Bolling why she was away from her desk. Ms. Bumpers informed him that she suffers from stomach ulcers and pains, and to that end, requires frequent bathroom breaks. Mr. Bolling says this is fine, but that when she needs to visit the bathroom, she is to first inform him. She felt uncomfortable reporting her bathroom visits to a male superior, and so told him, that she would leave a note at her desk instead.
24. Mr. Bolling however would continue to harass her about her bathroom breaks and that she needs to be working rather than spending the time in the washroom. As he was sitting a mere 20 feet away from her, he began to closely monitor her movements. He would not do so for other similarly situated employees or medical appointing clerks.

1 **25.** On or about Friday September 7, 2012, Ms. Bumpers had a detailed discussion with
2 Mr. Bolling about her physical and mental ailments. At which point he sarcastically
3 replied, "they have medication for people like you." On this same day, Ms. Bumpers
4 sends Mr. Bolling an email that he found her comments to be disrespectful.
5

6 **26.** A week later, or on Friday September 14, 2012, she was emailed a new seating
7 location by Mr. Bolling. She learned that she was the only employee to be stationed at
8 the end of the hall, without a designated work station. No other similarly situated
9 Medical Appointing Clerk was segregated in this way. Her segregation at the end of
10 the hall, also meant that she was now further away from the bathroom. Mr. Bolling
11 would also now physically follow her to the washroom, and take account of the time
12 spent. This would continue everyday until her termination on December 19, 2012.
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14 **27.** On November 9, 2012, her office moved to the Bethesda, Maryland location. She
15 would remain in this location until her termination five (5) weeks later or December
16 19, 2012. Her team lead continued to be Mr. Bolling and she continued to be
17 segregated from the rest of the staff at this new location.
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19 **28.** About two months later, or November 20, 2012, she was placed on a PIP by the HR
20 Director Ms. Wright. Ms. Wright is not her direct supervisor and is not aware of her
21 work performance. On this day, she is asked to attend a meeting with Ms. Wright at
22 the DSI conference room. The only participants were Ms. Wright and Ms. Bumpers.
23 After closing the door, Ms. Wright asks, if she knows what a Performance
24 Improvement Plan or a PIP is. Ms. Bumpers says, "No." Ms. Wright smiles. She then
25 proceeds to tell her that her attendance has not been regular and if she has found
26 suitable child care for her (Ms. Bumpers) daughter Destiny (then age 11). Ms.
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1 Bumpers says she has. Ms. Wright then informs her that she would like Destiny to
2 attend school with her (Ms. Wright's) daughter in the Fairfax County schools. She
3 then asks if Destiny's father plays an active role in her life. Ms. Bumpers replies that
4 she is a single mother. Ms. Wright says, in order for Destiny to attend the Fairfax
5 County schools, she (Ms. Wright) would need legal custody of Destiny. Ms. Bumpers
6 objects to this demand. Ms. Wright's face turns red. Ms. Bumpers then informs her
7 that "Mr. Bolling keeps following me to the bathroom, and I am sure he has come to
8 you about this." Ms. Wright snaps, and says, "You are a liar! Mr. Bolling has never
9 come to me about this!" Ms. Wright then said, "I see that you are upset." Mr. Wright
10 calms down and offers to buy Ms. Bumpers thanksgiving dinner and to take Destiny
11 for a trip to Hawaii with her family. The meeting then comes to a close.

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16 **29.** Nothing on this day is therefore discussed about attendance or other complaints in the
17 PIP. To date, Ms. Bumpers has also never been provided a copy of the PIP. Ms.
18 Bumpers was also never provided any instruction in improving her attendance. The
19 next day, the offer by Ms. Wright to take Destiny to Hawaii for vacation, is also
20 rescinded.
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23 **30.** Six days after the issuance of the PIP or November 26, 2012, Mr. Bolling would have
24 two other employees aid him in the following and monitoring of Ms. Bumpers'
25 bathroom visits. This would continue uninterrupted until she was terminated on
26 December 19, 2013.
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29 **31.** On December 10, 2012, Ms. Bumpers again experienced stomach pains at work,
30 followed by an anxiety attack, resulting in chest pains and tightening of the chest
31 muscles. She asked Mr. Bolling if she could leave to see a doctor. He said, "No." She
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1 then called DSI Human Resources to request permission to see a physician. HR
2 allowed her to see a physician. On this day, she visited the emergency room at the
3 'United Medical Center.' She discussed her ailments with the medical physician that
4 because of the constant surveillance by Mr. Bolling, she felt restricted in taking
5 frequent bathroom breaks. The physician advises her to seek the "on call" shift at DSI
6 as an accommodation
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9 **DSI Fails to Engage In the Interactive Process and Request for Accommodation.**

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11 32. On December 12, 2012, Ms. Bumpers sends an email to Ms. Wright, the HR Director
12 at DSI for a reasonable accommodation to the "on call" shift per her physician's
13 instructions. She never receives a reply for accommodations. On December 13, 2012,
14 Ms. Bumpers visited her primary physician Dr. Katherine Hurd, who recommends
15 that she see a psychiatrist to discuss the work environment and constant surveillance
16 by DSI. Dr. Hurd also recommends a change to the "on call" shift as an
17 accommodation.
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21 33. On December 17, 2012, Ms. Bumpers again sends an email to Ms. Wright requesting
22 accommodation to the "on call" shift, she again never receives a reply. To the best of
23 our knowledge, other similarly situated employees and Medical Appointment Clerks,
24 Ms. Sharon Malone and Kanesha (last name unknown) who were not disabled were
25 readily transferred to the "on call" shift.
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28 34. On December 18, 2012, Ms. Bumpers reports to work and again experiences stomach
29 pain affecting the digestive organ, chest pains and hyperventilation. Per company
30 policy she visits Mr. Bolling to inform him of her physical ailments but is unable to
31 locate him at his desk. She then telephones HR Administrative Assistant Ms.
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1 Samantha Lawrence and informs her that she needs to leave for the day for a visit to
2 the doctor, and asks to speak with DSI Chief Executive Officer Mr. Earl Brown. Mr.
3 Brown informs Ms. Lawrence to have Ms. Bumpers hold the line for five minutes.
4 She held the line for three minutes before feeling her chest muscles contracting and
5 shortness of breath; she leaves the work premises to visit Dr. Hurd. When Ms.
6 Bumpers arrived to work on December 19, 2013, she was terminated by Ms. Wright
7 for leaving the work premises without permission. This is not true, as she had
8 informed Ms. Lawrence of her intent to leave work.
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12 **35.** Post-termination, Ms. Bumpers applied for unemployment insurance from the
13 Virginia Employment Commission. She was denied unemployment insurance
14 because DSI informed the Commission that she was terminated for cause, in this case
15 leaving the work premises without permission.
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18 **36.** Presently, Ms. Bumpers is unemployed and continues to visit her doctor on her
19 physical and mental ailments.
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21 **V. 1ST CAUSE OF ACTION ADAAA DISCRIMINATION**
22 **42 U.S.C. §12112**

23 **37.** Plaintiff alleges and incorporates all the above allegations.

24 **38.** Diamond Solutions Inc was at all times an employer of the Plaintiff Ms. Bumpers, for
25 purposes of the American Disabilities Act Amendments Act (ADAAA).
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27 **39.** The Plaintiff Ms. Bumpers is a disabled individual with a physical and mental
28 impairment that substantially limits a major life activity as under the ADAAA.
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30 **40.** At all times of Plaintiff Ms. Bumpers employment, Diamond Solutions Inc., had
31 knowledge of her disability or perceived disability. Ms. Bumpers also has a record of
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1 such an impairment and was regarded as having such an impairment by Diamond
2 Solutions.
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4 **41.** The Plaintiff Ms. Bumpers alleges that one or more of the agents, managers, supervisors,
5 and/or employees of Diamond Solutions Inc, acting on its behalf, subjected her to
6 discrimination on the basis of her disability or perceived disability by segregating her
7 from other non-disabled and similarly situated colleagues, by monitoring her daily
8 activities, including her bathroom breaks, by failing to provide reasonable
9 accommodations for her disability, in this case by refusing to transfer her to an “on call”
10 status and/or by terminating her employment from Diamond Solutions because of this
11 perceived disability. Any or all of these actions, singularly or cumulatively affected her
12 “terms, conditions and privileges of employment.” 42 U.S.C. § 12112(a).
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16 **42.** Defendant Diamond Solutions Inc., and its agents, managers, supervisors or employees
17 knew of the Plaintiff’s disability when they placed her on a Performance Improvement
18 Plan, failed to accommodate her and/or subsequently terminated her. These and other
19 disparate treatments by the Defendant constitute illegal discrimination by Diamond
20 Solutions Inc., because of Ms. Ms. Bumpers’s disability or perceived disability. Any or
21 all of these actions, singularly or cumulatively affected her “terms, conditions and
22 privileges of employment.” 42 U.S.C. § 12112(a).
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26 **43.** As a direct and proximate result of this injury from the Defendant, Plaintiff has suffered
27 and is suffering considerable injury, including but not limited to loss of substantial past
28 and future salary and income, benefits and other privileges and entitlements of
29 employment, loss of professional status and career enhancing and advancement
30 opportunities and loss of retirement savings and benefits. The Plaintiff Ms. Bumpers, has
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1 also suffered from emotional distress arising from the loss of her job, the damage to her
2 professional reputation and the embarrassment, humiliation, and indignity arising from
3 the discriminatory conduct of Defendant and/or agents or employees acting on its behalf,
4 and the stress and anxiety caused by her wrongful termination and resultant financial
5 hardship.
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8 44. As a consequence of Defendant's action, Diamond Solutions Inc., is additionally liable
9 for attorney's fees and other costs and interest in pursuit of this litigation.
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11 **2ND CAUSE OF ACTION: FAILURE TO ACCOMADATE AS UNDER THE ADA**
12 **42 U.S.C. §12112**

13 45. Plaintiff alleges and incorporates all the above allegations.

14 46. Diamond Solutions Inc., was at all times an employer of the Plaintiff Ms. Bumpers, and
15 for purposes of the American Disabilities Act Amendments Act (ADAAA).
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17 47. The Plaintiff Ms. Bumpers is a disabled individual with a physical and mental
18 impairment that substantially limits a major life activity as under the ADAAA.
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20 48. At all times of Plaintiff Ms. Bumpers employment, Diamond Solutions Inc., had
21 knowledge of her disability or perceived disability. Ms. Bumpers also has a record of
22 such impairment.
23

24 49. The Plaintiff Ms. Bumpers informed Defendant, Diamond Solutions Inc., of her disability
25 and request for accommodations.
26

27 50. The Plaintiff Ms. Ms. Bumpers alleges that one or more of the agents, managers, or
28 supervisors of Diamond Solutions Inc., failed to accommodate her disability and/or
29 engage in the interactive process with the Plaintiff and/or her physician, to determine an
30 appropriate and reasonable accommodation as required under the ADAAA.
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1 **51.** The defendant subsequently not only failed to engage in the interactive process, but also
2 subjected the Plaintiff Ms. Bumpers to an adverse employment action, by placing her on
3 a Performance Improvement Plan, and then subsequently terminating her from
4 employment on December 19, 2012.

5
6 **52.** The Defendant is unable to show that the accommodation requested would have imposed
7 “an undue hardship on the operation of the business.” 42 U.S.C. § 12112(b)(5).

8
9 **53.** As a direct and proximate result of this injury from the Defendant, Plaintiff has suffered
10 and is suffering considerable injury, including but not limited to loss of substantial past
11 and future salary and income, benefits and other privileges and entitlements of
12 employment, loss of professional status and career enhancing and advancement
13 opportunities, and loss of retirement savings and benefits. The Plaintiff Ms. Bumpers, has
14 also suffered from emotional distress arising from the loss of her job, the damage to her
15 professional reputation and the embarrassment, humiliation, and indignity arising from
16 the discriminatory conduct of Defendant and/or agents or employees acting on its behalf,
17 and the stress and anxiety caused by her wrongful termination and resultant financial
18 hardship.

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20 **54.** As a consequence of Defendant’s action, Diamond Solutions Inc., is additionally liable
21 for attorney’s fees and other costs and interest in pursuit of this litigation.

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23 **3RD CAUSE OF ACTION: RETALIATION AS UNDER THE ADAAA.**
24 **42 U.S.C. §12203**

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26 **55.** Plaintiff alleges and incorporates all the paragraphs above.

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28 **56.** Diamond Solutions Inc., was at all times an employer of the Plaintiff Ms. Bumpers, and
29 for purposes of the American Disabilities Act Amendments Act (ADAAA).
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1 **57.** The Plaintiff Ms. Bumpers is a disabled individual with a physical and mental
2 impairment that substantially limits a major life activity as under the ADAAA.

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4 **58.** At all times of Plaintiff Ms. Bumpers' employment, Diamond Solutions Inc., had
5 knowledge of her disability or perceived disability. Ms. Bumpers also has a record of
6 such an impairment and/or was regarded as having such an impairment by Diamond
7 Solutions.
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9 **59.** The Plaintiff Ms. Bumpers engaged in protected activity when she informed the
10 Defendant, Diamond Solutions Inc., of her disability, request for sick leave and/or
11 medical appointments and/or request for accommodations.
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13 **60.** The Plaintiff Ms. Bumpers alleges that one or more of the agents, managers, or
14 supervisors of Diamond Solutions Inc., failed to accommodate her disability and/or
15 engage in the interactive process with the Plaintiff and/or her physician, to determine an
16 appropriate and reasonable accommodation as required under the ADAAA.
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18 **61.** The defendant subsequently not only failed to engage in the interactive process, but also
19 retaliated against her, by subjecting her to an adverse employment action, by segregating
20 her, by monitoring her daily activities, by placing her on a Performance Improvement
21 Plan, and/or subsequently terminating her on December 19, 2012. Diamond Solutions
22 Inc., then further retaliated against the Plaintiff, when it submitted a false basis to the
23 Virginia Unemployment Commission to deny her, her unemployment benefits. Any or all
24 of these actions are in violation of the Acts retaliatory provisions including but not
25 limited to 42 U.S.C § 12203 (a) and (b).
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27 **62.** Because of the close proximity of the protected activity and the adverse employment
28 actions by Diamond Solutions Inc., a causal link can be established proving retaliation,
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1 which would dissuade a reasonable worker from making or supporting a charge of
2 discrimination. *See Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 68 (2006).
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4 63. As a direct and proximate result of this injury from the Defendant, Plaintiff has suffered
5 and is suffering considerable injury, including but not limited to loss of substantial past
6 and future salary and income, benefits and other privileges and entitlements of
7 employment, loss of professional status and career enhancing and advancement
8 opportunities, and loss of retirement savings and benefits. The Plaintiff Ms. Bumpers, has
9 also suffered from emotional distress arising from the loss of her job, and unemployment
10 benefits, the damage to her professional reputation and the embarrassment, humiliation,
11 and indignity arising from the discriminatory and retaliatory conduct of Defendant and/or
12 agents or employees acting on its behalf, and the stress and anxiety caused by her
13 wrongful termination and resultant financial hardship.
14
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17

18 64. As a consequence of Defendant's action, Diamond Solutions Inc., is additionally liable
19 for attorney's fees and other costs and interest in pursuit of this litigation.
20

21 **4th CAUSE OF ACTION: DISCRIMINATION AS UNDER THE FAIRFAX**
22 **COUNTY CODE, HUMAN RIGHTS ORDINANCE**

23 65. Plaintiff alleges and incorporates all the paragraphs above.

24 66. Diamond Solutions Inc was at all times an employer of the Plaintiff Ms. Bumpers, for
25 purposes of the Human Rights Ordinance, Chapter 11, § 11-1-2.
26

27 67. The Plaintiff Ms. Bumpers is a disabled individual with a physical and mental
28 impairment that substantially limits a major life activity as under the Human Rights
29 Ordinance.
30

31 68. At all times of Plaintiff Ms. Bumpers employment, Diamond Solutions Inc., had
32 knowledge of her disability or perceived disability. Ms. Bumpers also has a record of

1 such an impairment and was regarded as having such an impairment by Diamond
2 Solutions.
3

4 **69.** The Plaintiff Ms. Bumpers alleges that one or more of the agents, managers, supervisors,
5 and/or employees of Diamond Solutions Inc, acting on its behalf, subjected her to
6 discrimination on the basis of her disability or perceived disability by segregating her
7 from other non-disabled and similarly situated colleagues, by monitoring her daily
8 activities, including her bathroom breaks, by failing to provide reasonable
9 accommodations for her disability, in this case by refusing to transfer her to an "on call"
10 status and/or by terminating her employment from Diamond Solutions because of this
11 perceived disability.
12
13
14

15 **70.** Defendant Diamond Solutions Inc., and its agents, managers, supervisors or employees
16 knew of the Plaintiff's disability when they placed her on a Performance Improvement
17 Plan, failed to accommodate her and/or subsequently terminated her. These and other
18 disparate treatments by the Defendant constitute illegal discrimination by Diamond
19 Solutions Inc., because of Ms. Ms. Bumpers's disability or perceived disability.
20
21

22 **71.** As a direct and proximate result of this injury from the Defendant, Plaintiff has suffered
23 and is suffering considerable injury, including but not limited to loss of substantial past
24 and future salary and income, benefits and other privileges and entitlements of
25 employment, loss of professional status and career enhancing and advancement
26 opportunities and loss of retirement savings and benefits. The Plaintiff Ms. Bumpers, has
27 also suffered from emotional distress arising from the loss of her job, the damage to her
28 professional reputation and the embarrassment, humiliation, and indignity arising from
29 the discriminatory conduct of Defendant and/or agents or employees acting on its behalf,
30
31
32

1 and the stress and anxiety caused by her wrongful termination and resultant financial
2 hardship.
3

4 72. As a consequence of Defendant's action, Diamond Solutions Inc., is additionally liable
5 for attorney's fees and other costs and interest in pursuit of this litigation.
6

7 **5th CAUSE OF ACTION FAILURE TO ACCOMADATE AS UNDER THE FAIRFAX**
8 **COUNTY CODE, HUMAN RIGHTS ORDINANCE**

9 73. Plaintiff alleges and incorporates all the above allegations.

10 74. Diamond Solutions Inc., was at all times an employer of the Plaintiff Ms. Ms. Bumpers,
11 and for purposes of the Fairfax County Code, Human Rights Ordinance, Chapter 11, §11-
12 1-2.
13

14 75. The Plaintiff Ms. Bumpers is a disabled individual with a physical and mental
15 impairment that substantially limits a major life activity as under the Human Rights
16 Ordinance.
17

18 76. At all times of Plaintiff Ms. Bumpers employment, Diamond Solutions Inc., had
19 knowledge of her disability or perceived disability. Ms. Bumpers also has a record of
20 such an impairment.
21

22 77. The Plaintiff Ms. Ms. Bumpers informed Defendant, Diamond Solutions Inc., of her
23 disability and request for accommodations.
24

25 78. The Plaintiff Ms. Ms. Bumpers alleges that one or more of the agents, managers, or
26 supervisors of Diamond Solutions Inc., failed to accommodate her disability and/or
27 engage in the interactive process with the Plaintiff and/or her physician, to determine an
28 appropriate and reasonable accommodation as required under the Human Rights
29 Ordinance.
30
31
32

1 79. The defendant subsequently not only failed to engage in the interactive process, but also
2 subjected the Plaintiff Ms. Bumpers to an adverse employment action, by placing her on
3 a Performance Improvement Plan, and then subsequently terminating her from
4 employment on December 19, 2012.
5

6
7 80. As a direct and proximate result of this injury from the Defendant, Plaintiff has suffered
8 and is suffering considerable injury, including but not limited to loss of substantial past
9 and future salary and income, benefits and other privileges and entitlements of
10 employment, loss of professional status and career enhancing and advancement
11 opportunities, and loss of retirement savings and benefits. The Plaintiff Ms. Bumpers, has
12 also suffered from emotional distress arising from the loss of her job, the damage to her
13 professional reputation and the embarrassment, humiliation, and indignity arising from
14 the discriminatory conduct of Defendant and/or agents or employees acting on its behalf,
15 and the stress and anxiety caused by her wrongful termination and resultant financial
16 hardship.
17
18
19

20 81. As a consequence of Defendant's action, Diamond Solutions Inc., is additionally liable
21 for attorney's fees and other costs and interest in pursuit of this litigation.
22

23 **6TH CAUSE OF ACTION: RETALIATION AS UNDER THE FAIRFAX COUNTY**
24 **CODE, HUMAN RIGHTS ORDINANCE.**
25

26 82. Plaintiff alleges and incorporates all the paragraphs above.

27 83. Diamond Solutions Inc., was at all times an employer of the Plaintiff Ms. Bumpers, and
28 for purposes of the Fairfax County Code, Human Rights Ordinance, Chapter 11, §11-1-2.
29

30 84. The Plaintiff Ms. Bumpers is a disabled individual with a physical and mental
31 impairment that substantially limits a major life activity as under the Human Rights
32 Ordinance.

1 85. At all times of Plaintiff Ms. Bumpers employment, Diamond Solutions Inc., had
2 knowledge of her disability or perceived disability. Ms. Bumpers also has a record of
3 such an impairment and/or was regarded as having such an impairment by Diamond
4 Solutions.
5

6 86. The Plaintiff Ms. Bumpers engaged in protected activity when she informed the
7 Defendant, Diamond Solutions Inc., of her disability, request for sick leave, medical
8 appointments and/or request for accommodations.
9

10 87. The Plaintiff Ms. Bumpers alleges that one or more of the agents, managers, or
11 supervisors of Diamond Solutions Inc., failed to accommodate her disability and/or
12 engage in the interactive process with the Plaintiff and/or her physician, to determine an
13 appropriate and reasonable accommodation as required under the Human Rights
14 Ordinance.
15

16 88. The defendant subsequently not only failed to engage in the interactive process, but also
17 retaliated against her, by subjecting her to an adverse employment action, by placing her
18 on a Performance Improvement Plan, and/or subsequently terminating her on December
19 19, 2012. Diamond Solutions Inc., then further retaliated against the Plaintiff, when it
20 submitted a false basis to the Virginia Unemployment Commission to deny her, her
21 unemployment benefits.
22

23 89. Because of the close proximity of the protected activity and the adverse employment
24 actions by Diamond Solutions Inc., a causal link can be established to indicate retaliation,
25 which would dissuade a reasonable worker from making or supporting a charge of
26 discrimination. *See Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 68 (2006).
27
28
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injuries and loss;

E. Award Plaintiff pecuniary and out of pocket expenses;

F. Order Defendant to pay all reasonable attorneys fees, court costs, and expenses incurred by Plaintiff as a result of Defendants' actions and inactions, as well as pre judgment and post-judgment interest; and


G. Order such other equitable and legal relief as the Court deems appropriate.

VII. JURY TRIAL DEMANDED.

Plaintiff demands a jury trial for this action.

Dated: January 29, 2014.

Respectfully Submitted,


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Pro Hac Vice Application To Be Filed